## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	$\overline{}$	Discourt.	$\overline{}$	TIC
				Ι—					
Ethan Waterman		Squad #13	202302046	✓	Abuse		O.L.		Injury
Incident Date(s)		Location of Incident:			18 N	10. SC	OL	P	Precinct:
Tuesday, 01/24/2023 10:24 AM		§ 87(2)(b)			7/2	4/202	4		44
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	e Rece	eived at CCI	RВ	
Fri, 03/10/2023 9:22 AM		CCRB	Phone		Fri, 03/10	/2023	9:22 AM		
Complainant/Victim	Type	Home Addre	ess						
Witness(es)		Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. PO Jeyson Bisonosainthilaire	12353	960252	044 PCT						
2. PO Ryan Lopez	09227	965783	044 PCT						
3. SGT Joseph Illesca	03521	953984	044 PCT						
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. PO Gary Reyes	15244	951129	044 PCT						
2. SGT Michael Orapollo	04248	952071	044 PCT						
Officer(s)	Allegatio	on .			Inv	estiga	tor Recon	ame	ndation
A . PO Jeyson Bisonosainthilaire	Abuse: P § 87(2)(b)	olice Officer Jeyson Bis	sonosainthilaire enter in the Bronx.	red					
B . PO Ryan Lopez	Abuse: P	olice Officer Ryan Lope	ez entered in the Bronx.						
C . PO Jeyson Bisonosainthilaire	Abuse: P	olice Officer Jeyson Bis	sonosainthilaire sear	che	d				
D . PO Ryan Lopez	Abuse: P	olice Officer Ryan Lope with the use of force							
E . PO Jeyson Bisonosainthilaire	Force: Po	olice Officer Jeyson Bise force against § 87(2)(6)	onosainthilaire used						
F . PO Ryan Lopez		olice Officer Ryan Lope	z used physical force	e					
G . SGT Joseph Illesca		ergeant Joseph Illesca us	sed physical force ag	ain	st				
H . SGT Joseph Illesca	Abuse: S	ergeant Joseph Illesca for to the hospital.	orcibly removed \$870	2)					
§ 87(2)(g), § 87(4-b)		_							
§ 87(2)(g), § 87(4-b)									
\$ 67/2)(-) \$ 67/4 \$ )									
§ 87(2)(g), § 87(4-b)									

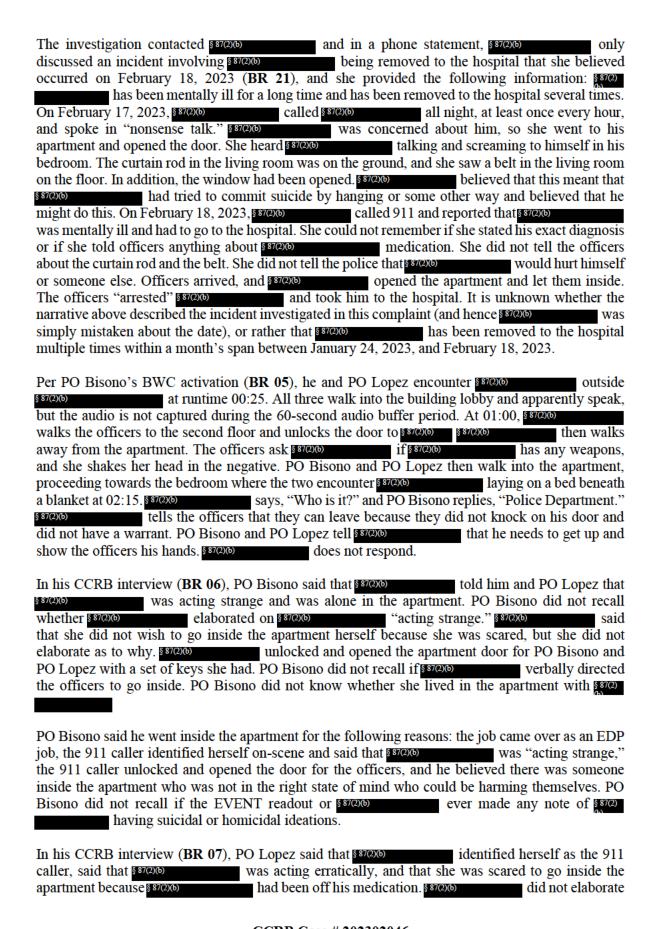
## Case Summary

On March 10, 2023, second called the CCRB and filed this complaint (BR 01). This case was originally assigned to Investigator Katherine White. The case was reassigned to Supervising Investigator Ethan Waterman on August 24, 2023.
On January 24, 2023, at approximately 10:24 a.m., \$370,00000000000000000000000000000000000
§ 87(2)(g), § 87(4-b)
No arrests or summonses resulted from this incident.
The investigation received body-worn camera (BWC) footage from PO Bisono Saint Hilaire (self-identified as "PO Bisono"), Sgt. Illesca, PO Lopez, and other members of the 44 <sup>th</sup> Precinct ( <b>BR 02</b> ). The relevant aspects of this footage shall be discussed below.
Findings and Recommendations
Allegation (A) Abuse of Authority: Police Officer Jeyson Bisono Saint Hilaire entered in the Bronx.  Allegation (B) Abuse of Authority: Police Officer Ryan Lopez entered in the Bronx.
In his CCRB interview (BR 03), solution of this incident at solution and the morning of this incident, solution was asleep in his bed when he heard voices say, "NYPD, wake up," in his bedroom. The officers did not knock and did not have a warrant. The officers repeatedly told him to get out of bed, and solutions are plied that he wished to sleep more and not get up.
On January 24, 2023, at 10:24 a.m., (the complainant's mother) called 911 (BR 04, 23) and said that (was off his medication, known to be violent, and screaming on the bed. The subsequent NYPD job was marked as an ambulance case involving a violent "EDP,"

which stands for emotionally disturbed person. The 911 dispatcher transmitted the following over the radio, which was acknowledged by PO Bisono and PO Lopez (BR 22): "Respond to a violent EDP

no weapons, no injuries."

AIDED off his medication,



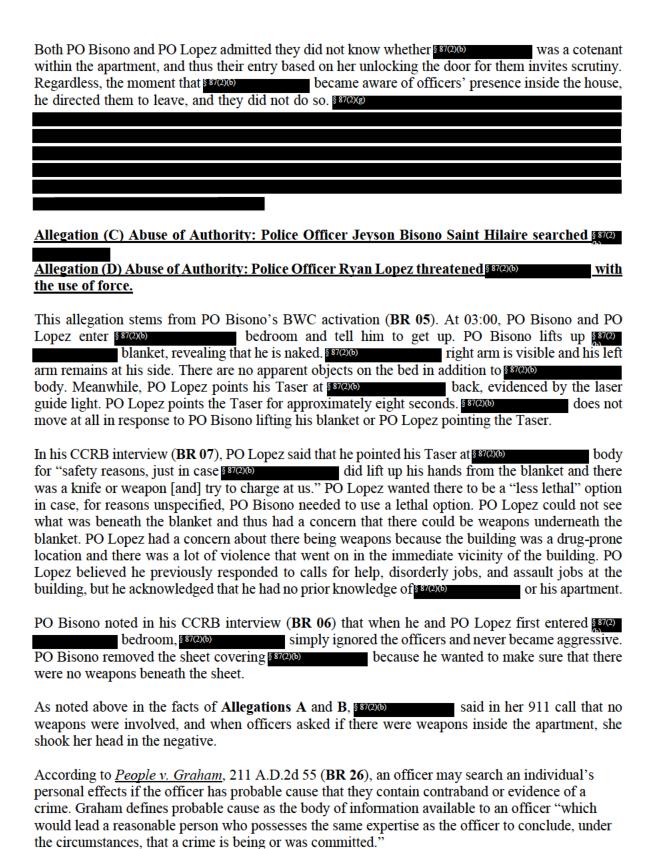
upon § 87(2)(6)	erratic behavior. PO	Lopez did not recall wheth	er § 87(2)(b)	was a
cotenant in the apartment	with § 87(2)(b)			

Patrol Guide Procedure 221-13 (BR 08) defines an emotionally disturbed person as, "a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others." When an officer "reasonably believes that a person who is apparently mentally ill and emotionally disturbed, must be taken into protective custody because the person is conducting himself in a manner likely to result in serious injury to himself or others."

Per <u>People v. Rodriguez</u>, 77 A.D.3d 280 (**BR 09**), so long as the police have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property and so long as there is some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched, a warrantless police entry of a location is permissible.

In <u>Georgia v. Randolph</u>, 547 U.S. 103 (**BR 10**), the Supreme Court of the United States wrote, "Since a co-tenant wishing to open the door to a third party has no recognized authority in law or social practice to prevail over a present and objecting co-tenant, his disputed invitation, without more, gives a police officer no better claim to reasonableness in entering than the officer would have in the absence of any consent at all. Accordingly, in the balancing of competing individual and governmental interests entailed by the bar to unreasonable searches, the cooperative occupant's invitation adds nothing to the government's side to counter the force of an objecting individual's claim to security against the government's intrusion into his dwelling place."

§ 87(2)(g)
told the 911 operator that \$87(2)(6) was screaming on his bed, off his
medication, and known to be violent; this information was relayed to officers through the EVENT
readout. PO Lopez and PO Bisono recalled that success made generalized statements
regarding strange" – without going into further
detail. \$87(2)(6) allegedly expressed fear of going inside the apartment because \$87(2)
was off his medication, per PO Lopez. Neither PO Bisono nor PO Lopez knew whether
had authority over the apartment but acknowledged that she had a set of keys that
opened the front door. Upon walking inside, PO Bisono and PO Lopez encountered
alone in his home and asleep on a bed. Immediately upon recognizing that officers were inside his
home, \$87(2)(6) directed them to leave. \$87(2)(2)
§ 87(2)(g)



In <u>People v. Williams</u>, 111 A.D.3d 448 (BR 25), the Supreme Court of New York, Appellate Division,

CCRB Case # 202302046

First Department, affirmed that the search of an individual is reasonable as a safety measure when the officer "not only [has] reasonable suspicion that the defendant [is] carrying a weapon, but [knows] exactly where the weapon is located." In this case, an officer located a firearm in an individual's waistband after observing a pistol-shaped bulge, frisking the individual and feeling the grip of a pistol in the waistband, and the court ruled that this search was reasonable.

§ 87(2)(g)
Furthermore, as noted above, source had directed officers to leave the apartment and thus was under no obligation to follow their orders for him to get up. Although PC Lopez was familiar with the building and the area, neither PO Bisono nor PO Lopez provided any reason for believing source himself was in possession of any contraband or evidence of the source of th
crime. § 87(2)(g)
§ \$7(2)
§ 87(2)(b) Said ti
both her 911 call and directly to PO Bisono and PO Lopez that no weapons were inside the apartment there is no visual evidence from BWC showing anything resembling a bulge of any sort, and PC Bisono even noted that [87(2)(6)] never became aggressive. [87(2)(6)]

Per <u>Patrol Guide Procedure 221-01</u> (**BR 11**), force may be used when it is reasonable to ensure the safety of an officer or a third person, or to otherwise protect life. Any application or use of force must be reasonable under the circumstances, and de-escalation must be prioritized whenever possible. Officers must consider the following factors when determining the reasonableness of the use of force: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; number of subjects in comparison to the MOS; subject's violent history, if known; presence of hostile crowd or agitators; subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

<u>Patrol Guide Procedure 221-08</u> (**BR 12**) defines a "laser warning" as "pointing and placing the laser dot of an activated CEW on a subject in order to attempt to achieve voluntary compliance," further noting, "when feasibly, a verbal warning, consistent with personal safety, should be given to the intended subject in conjunction with a laser warning." The procedure continues, "CEWs should only used against persons who are actively resisting, exhibiting active aggression or to prevent individuals from physically hurting themselves or other persons actually present."

PO Lopez justified his Taser pointing at \$87(2)(0) by citing the potential for the situation
escalating, because the building was a "drug-prone location," and that violence sometimes takes place
in the vicinity of \$37(2)(0) building. PO Bisono noted how \$37(2)(0) did not
become aggressive with officers upon their entering his bedroom and how he was not at all
aggressive. Furthermore, in removing the blanket, PO Bisono exposed by the body and
showed that he did not have anything on his person. Additionally, \$37(2)(0) body
maintained the same position while PO Bisono lifted the blanket and PO Lopez pointed his Taser. In
summation, \$87(2)(0) never posed a physical threat to the officers, never became aggressive,
and never escalated the situation, [SST(2)(2)

Allegation (E) Force: Police Officer Jeyson Bisono Saint Hilaire used physical force against
Allegation (F) Force: Police Officer Ryan Lopez used physical force against (S) (C) Allegation (G) Force: Sergeant Joseph Illesca used physical force against (S) (C) (C) (C) (C) (C) (C) (C) (C) (C) (C
Allegation (H) Abuse of Authority: Sergeant Joseph Illesca forcibly removed
to the hospital.
In his CCRB interview ( <b>BR 03</b> ), said that after minutes of officers being inside his bedroom, a white male officer grabbed both of his hands and pulled him out of the bed. fell to the ground. He was not injured. Two officers then picked up off the ground, handcuffed him, and then walked him out into the hallway. saked the officers, "Why am I being arrested?" The white officer said, "Because you wanted to jump off the 7th Floor fire exit with a dog leash around your neck." saccondated to an ambulance, at which point he was removed to saccondated.
several minutes after PO Bisono and PO Lopez. Upon his arrival at the location, he speaks with store at 01:20. She tells him that store was screaming that he wanted to commit suicide and that he was not on medication. Sgt. Illesca tells store that EMS is on its way and that they would probably take him to the hospital. Sgt. Illesca then goes upstairs, enters the apartment, and speaks with store gets passed around to the FDNY EMTs and then back to Sgt. Illesca. After a few seconds, Sgt. Illesca says at 06:22, "Yeah, we got to," at which point Police Officer Gary Reyes of the 44th Precinct tells store that it is time to put some clothes on and go to the hospital. Sgt. Illesca then approaches bedside and tells him it is time to go to the hospital. Sgt. Illesca then approaches with Sgt. Illesca, as well as PO Bisono and PO Lopez, initiate physical contact with store with store graph his arms. The three apparently pull store officers tell store to get up off the floor, and store to get up, on the bed to the floor at 07:21. Several officers tell store to get up officers then handcuff the floor, and store while he sits upright on the floor. Thereafter, officers stand upright and clothe him. At 09:02, officers and EMTs walk store out of the building and into an ambulance.
In his CCRB interview ( <b>BR 06</b> ), PO Bisono said that he himself did not pull strong off the bed, and that after reviewing his own BWC activation from 09:25 to 09:50, other officers pulled on to handcuff him and not necessarily to take him off the bed and onto the floor.
In his CCRB interview ( <b>BR 07</b> ), PO Lopez said that once EMTs said that said

threw him to the floor, and PO Lopez did not intend to place \$87(2)(6) on the floor.

<u>Patrol Guide Procedure 221-13</u> (**BR 07**) defines an emotionally disturbed person as "a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others." When an officer "reasonably believes that a person who is apparently mentally ill and emotionally disturbed, <u>must</u> be taken into protective custody because the person is conducting himself in a manner likely to result in serious injury to himself or others."

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Sgt. Illesca received informa		that § 87(2)(b)	was screaming that
he wanted to commit suicide	and that he was not or	n medication. § 87(2)(g)	
After consulting with EMTs a Sgt. Illesca instructed structed ambulance. \$87(2)(6) Illesca pulled \$87(2)(6)	to ge repeatedly refused	t up and accompany	officers and EMTs to an Bisono, PO Lopez, and Sgt.
		_	
§ 87(2)(g), § 87(4-b)			

§ 87(2)(g), § 87(4-b)			
§ 87(2)(g), § 87(4- b)			
	<u>Civilian a</u>	nd Officer CCRB Histories	
	first complaint to which		
		ervice for seven years and has been ne of which were substantiated.	
• Sat Illesc	a has been a member of s	ervice for 10 years and has been	a subject in three CCRR
		e of which were substantiated.	
<ul> <li>PO Lopez</li> </ul>	has been a member of se	ervice for five years and has been	a subject in four CCRB
		ne of which were substantiated.	
	Mediation	n, Civil, and Criminal Histories	
	plaint was not suitable for 1		
• § 87(2)(6) and seekin		Claim with the City of New York 18). There is no 50H hearing scheoo	
	(1)(3)&(4)] [§ 87(2)(c)]	_	
		RPBP History	
• This comp	olaint did not contain any a	llegations of Racial Profiling/Bias-	-Based Policing.
Canad Na	12		
Squad No.:	13		
Investigator:	Ethan C. Waterman	SI Ethan Waterman	10/30/2023
Č	Signature	Print Title & Name	Date

Squad Leader: JP Lozada		IM Jean-Paul Lozada	10/31/2023
_	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date